

Amend Sections 63-103.2(d)(3) and (f) to read:

63-103 DEFINITIONS--FORMS (Continued)

63-103

.2 Forms Listing (Continued)

d. (Continued)

(3) DFA 285-A2 (rev. ~~4/93~~12/04) - Application for Food Stamps - Part (2)

The DFA 285-A2 is completed by applicants and is used to collect the information necessary to determine an applicant's eligibility and benefit level. (Continued)

f. (Continued)

(14) (Continued)

(QR) FS 22 QR (rev. ~~12/03~~12/04) - Applying for Food Stamp Benefits

An FS 22 QR is a required form, but substitutes are permitted if the CWD obtains prior approval. The form is used to reflect the change to QR for most food stamp households. This form is used for all NAFS households. (Continued)

(15) (Continued)

(QR) FS 23 QR (rev. ~~12/04~~3/05) - How to Report Household Changes

An FS 23 QR is a required form, but substitutes are permitted if the CWD obtains prior approval. The FS 23 QR informs about reporting requirements for the Food Stamp Program, which include reporting changes on the QR 7, mandatory mid-quarter reports and voluntary mid-quarter reports.

(16) FS 26 (3/05) - Food Stamp Program Qualifying Drug Felon Addendum

An FS 26 is a required form, no substitutes are permitted. The FS 26 is provided to the household for completion to determine the food stamp eligibility of the drug felon. The FS 26 is used when adding a household member and the DFA 285A2 is not used, or when additional information is needed on a drug related felony conviction. (Continued)

Authority cited: Sections 10554, 11265.1, .2, and .3, 18901.3, 18904, and 18910, Welfare and Institutions Code.

Reference: Sections 10554, ~~18904~~, 11265.1, .2, and .3, 18901.3, 18904, and 18910, Welfare and Institutions Code; 7 CFR 273.2(b)(ii), (e) and (f); U.S.D.A. Food and Consumer Services Administrative Notice No. 94-22, dated January 7, 1994, Federal Register, Vol. 66, No. 229, dated November 28, 2001 and Food Nutrition Service Quarterly Reporting/Prospective Budgeting waiver approval dated April 1, 2003.

Amend Section 63-300.5(e) to read:

63-300 APPLICATION PROCESS (Continued)

63-300

.5 Verification (Continued)

(e) Mandatory Verification (Continued)

(11) Conditions of Eligibility for Drug Felons

For individuals convicted in a state or federal court of a felony that has as an element the possession or use of a controlled substance (not a disqualifying felony specified in MPP Section 63-402.229) shall, as a condition of eligibility, provide proof of one of the following in (A) through (E) below. When such proof is not available, the CWD shall accept self-certification under penalty of perjury as proof.

(A) Completion of a government-recognized drug treatment program.

(B) Participation in a government-recognized drug treatment program.

(C) Enrollment in a government-recognized drug treatment program.

(D) Placement on a waiting list for a government-recognized drug treatment program.

(E) Other evidence that the illegal use of controlled substances has ceased.

The applicant must state what the other evidence is and provide proof. The applicant must also certify under penalty of perjury that their illegal use of controlled substances has ceased. The CWD shall consider the evidence and must clearly document the reasons upon which denial or approval of benefits is made. If proof of other evidence is unavailable, the CWD shall accept self-certification under penalty of perjury as proof.

(12) Government-Recognized Drug Treatment Program

The term "government-recognized drug treatment program" is a program licensed, certified, or funded by a government entity, or a program in which a government or court entity has directed the applicant to participate. Sober Living Environment group living facilities emphasizing "Clean and Sober" living shall also be considered government-recognized programs or proof that drug use has ceased.

(f) Optional Verifications (Continued)

Authority cited: Sections 10554, 18901.3, and 18904, Welfare and Institutions Code.

Reference: Sections 10554, 11023.5, 11348.5, 18901.3, 18904, and 18932, Welfare and Institutions Code; 7 Code of Federal Regulations (CFR) 273.2(b)(ii), (c)(2)(i) and (ii), (c)(3), (c)(5), (e)(1), (e)(2), (e)(3), (f)(1)(i)(C), (ii)(B)(1), (2), (3), and (C), and (iii)(h)(1)(i)(D), and proposed (f)(1)(xii) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994, (f)(3), (f)(3)(ii), (f)(8), (h), (h)(1)(i)(D), and (j)(1); 7 CFR 273.4(a)(2) and (10) and (c)(2); 7 CFR 273.7(i)(4) and (j)(1); 7 CFR 273.12(c) and (c)(3); 7 CFR 273.14(b)(3)(i), (iii) and (b)(4) and (e); 7 CFR 273.21(h)(2)(iv), (i), and (j)(3)(iii)(B); USDA Food and Nutrition Service Office, Western Region, Administrative Notice 84-56, Indexed Policy Memo 84-23; 7 U.S.C.A. 2020(e)(2); Americans with Disabilities Act (ADA), Public Law (P.L.) 101-336, 1990; U.S.D.A., Food and Consumer Services, Administrative Notice No. 94-22, dated January 7, 1994; Chapter 306, Statutes of 1988, and AB 1371, Chapter 306, Statutes of 1995; Blanco v. Anderson Court Order, United States District Court, Eastern District of California, No. CIV-S-93-859 WBS, JFM, dated January 3, 1995, and Federal Register, Vol. 66, No. 229, dated November 28, 2001.

Amend Section 63-402.229 to read:

63-402 HOUSEHOLD CONCEPT (Continued)

63-402

.2 Nonhousehold and Excluded Household Members (Continued)

.22 Excluded Household Members (Continued)

.229 Convicted Drug Felon

An individual who has been convicted in a state or federal court of a felony that has as an element, the ~~possession, use, or~~ distribution of a controlled substance or other disqualifying conviction listed in Section 63-402.229(a) or (b). The conviction must be for conduct occurring after August 22, 1996. Controlled substance is defined in Section 102(6) of the Controlled Substances Act [21 U.S.C. Section 802(6)].

(a) Unlawfully transporting, importing into this state, selling, furnishing, administering, giving away, possessing for sale, purchasing for purposes of sale, manufacturing a controlled substance, possessing precursors with the intent to manufacture a controlled substance, or cultivating, harvesting, or processing marijuana or any part thereof pursuant to Section 11358 of the Health and Safety Code.

(b) Unlawfully soliciting, inducing, encouraging, or intimidating a minor to participate in any activity in Section 63-402.229(a).

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(~~a~~c) The term "convicted" also includes a plea of guilty or nolo contendere.

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.3 (Continued)

Authority cited: Sections 10554, 18901.3, and 18904, Welfare and Institutions Code.

Reference: Sections 10554, 11251.3, 11486.5, 18901.3, and 18904, Welfare and Institutions Code; 7 Code of Federal Regulations (CFR) 273.1(a)(1) through (a)(2)(ii) through (b)(2)(iii), (c), (c)(1), ~~(e)~~ and (6), ~~7 CFR 273.1(d)(1) and (2), (e)(1), and (g); 7 CFR 273.2(j)(4); 7 CFR 273.9(b)(2)(ii); 7 CFR 273.10(c)(1)(i); 7 CFR 273.11, .11(b)(1) and (f); 7 CFR 274.5; and 7 CFR 274.10;~~ Public Law (P.L.) 100-77, Section 802; P.L. 103-66; USDA Food and Nutrition Service (FNS), Administrative Notice (AN) 89-65; AN 94-39; AN 98-43; USDA FNS Policy Memo 89-11 and 89-12; 7 U.S.C. 2015(d)(1), P.L. 104-193, Sections 115, 803, 815, and 821 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996); and the Balanced Budget Act of 1977 (Sections 5516 and 5518).

Amend Section 63-503.441 to read:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND BENEFIT LEVELS 63-503
(Continued)

.4 Households with Special Circumstances

.44 Treatment of Income and Resources of Excluded Members

.441 Household Members Excluded for Conviction of a Disqualifying Drug Felony, IPV Disqualification, Workfare or Work Requirement Sanction, or is a Fleeing Felon and/or a Probation/Parole Violator

During the period of time that a household member is ineligible to participate because of conviction of a disqualifying drug felony as specified in MPP Section 63-402.229, disqualification for IPV, noncompliance with work requirements as specified in Section 63-407.4, imposition of a sanction while participating as a member of a household disqualified for failure to comply with workfare requirements, or is a fleeing felon and/or a probation/parole violator, the eligibility and benefit level of any remaining household members shall be determined as follows:

(a) (Continued)

Authority cited: Sections 10553, 10554, 10604, 18901.3, 11265.1, .2 and .3, 11369, 18904, and 18910, Welfare and Institutions Code.

Reference: Sections 10554, 11265.1, .2, and .3, 18901.3, 18904, and 18910, Welfare and Institutions Code; 7 Code of Federal Regulations (CFR) 271.2; 7 CFR 272.3(c)(1)(ii); 7 CFR 273.1(b)(2)(iii), (c)(3)(i), (ii) and (e)(1)(i) as published in the Federal Register, Volume 59, No. 110 on June 9, 1994; 7 CFR 273.2(j)(4); 7 CFR 273.4(c)(2), (c)(2)(i), (c)(2)(i)(A), (c)(2)(iv), (c)(2)(v), (c)(3)(v), and (e)(1) and (2); 7 CFR 273.9(b)(1)(ii), (b)(2)(ii), and (d)(6)(iii)(F); 7 CFR 273.10; 7 CFR 273.10(a)(1)(iii)(B); 7 CFR 273.10(c)(2)(iii), (c)(3)(ii), proposed amended 7 CFR 273.10(d) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994; (d)(1)(i), (d)(2), (d)(3), (d)(4), and proposed (d)(8) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994, and proposed amended 7 CFR 273.10(e)(1)(i)(E-H) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994; 7 CFR 273.11(a)(1)(i) through (iii), (a)(2)(i), (b)(1), (b)(1)(i) and (ii), (c), (c)(1), (c)(2), (c)(2)(iii), (c)(3)(ii), (d)(1), and (e)(1); 7 CFR 273.12(a)(1)(i)(A), (a)(1)(i)(B), (a)(1)(i)(C)(2), and (c)(3)(iv); 7 CFR 273.21(f)(2)(ii), (iii), (iv), and (v), (g)(3), (j)(1)(vii)(B), and (S); 7 CFR 273.24(b)(4); (Court

Order re Final Partial Settlement Agreement in Jones v. Yeutter (C.D. Cal. Feb. 1, 1990) ____ F. Supp. ____; Waiver Letter WFS-100:FS-10-6-CA, dated October 2, 1990, U.S.D.A., Food and Consumer Services; Administrative Notice No. 89-12, No. 92-23, dated February 20, 1992, No. 94-39, and No. 94-65; Public Law (P.L.) 100-435, Section 351, and P.L. 101-624, Section 1717; [7 United States Code (U.S.C.) 2012, 2014(e), and 2017(c)(2)(B)]; 7 U.S.C. 2015(d)(1); 8 U.S.C. 1631, P.L. 104-193, Sections 115, 815, 821, 827 and 829 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996); Federal Food Stamp Policy Memos 82-9 dated December 8, 1981, and 88-4 dated November 13, 1987, Federal Register, Vol. 66, No. 229, dated November 28, 2001, USDA FNS AN 03-23, dated May 1, 2003; and Food and Nutrition Service Quarterly Reporting/Prospective Budgeting waiver approval dated April 1, 2003.

Amend Sections 63-509(b)(1)(B) and (c)(1) to read:

63-509 INCOME ELIGIBILITY AND BENEFIT CALCULATION 63-509
FOR QUARTERLY REPORTING (Continued)

- (a) Income Eligibility and Grant Calculation for Quarterly Reporting Households (Continued)
- (b) Mandatory Mid-Quarter Changes to Benefits
 - (1) Mandatory Recipient Mid-Quarter Reports (Continued)
 - (A) (Continued)
 - (B) Action shall be taken on the food stamp case when the following mandatory CalWORKs changes are reported in the CalWORKs program:
 - 1. Disqualifying Drug felony convictions as specified in MPP Section 63-402.229;
 - 2. (Continued)
- (c) Action on Mandatory Recipient Mid-Quarter Reports
 - (1) Disqualifying Drug Felony Conviction, Fleeing Felon Status, Parole/Probation Violations

Food stamp recipients are not required to report a change in disqualifying drug or fleeing felon status or probation/parole violations mid-quarter. However, if a CalWORKs household reports disqualifying drug or fleeing felon or parole/probation violation, the CWD shall be required to act on the reported information in the food stamp case. The CWD must discontinue the individual from the PAFS household at the same time CalWORKs discontinues the individual, at the end of the month after 10-day notice can be provided.
 - (2) (Continued)

Authority Cited: Sections 10553, 10554, 11265, 18901.3, 18904, and 18910, Welfare and Institutions Code.

Reference: Sections 10554, 11265.1, .2, and .3, 18901.3, 18904, and 18910, Welfare and Institutions Code and Federal Nutrition Service Quarterly Reporting/Prospective Budgeting waiver approval dated April 1, 2003.

Correct Handbook Section 63-801.737(b)(QR) to read:

63-801 CLAIMS AGAINST HOUSEHOLDS (Continued)

63-801

.7 Method of Collecting Payments (Continued)

.73 Reduction in Food Stamp Allotments (Continued)

(QR) .737 Recoupment by Allotment Adjustment for QR Households

(QR) (b) (Continued)

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The following examples provide some guidance in the determination of O/Is in QR.

Late Mandatory Mid-Quarter Reporting: The recipient is in the April/May/June quarter. The mother is in a Public Assistance Food Stamp household of three and is convicted of a disqualifying drug felony on April 25 and reports the conviction on April 26. The report is considered timely, because it was made within 10 days. The CWD is unable to decrease benefits for May to reflect discontinuance of the ineligible household member, because there is insufficient time to provide 10-day notice. Benefits must be issued for May in the same amount that was issued in April, and the CWD must take action to decrease benefits effective June 1. The CWD shall not establish an O/I for the May allotment, because the recipient reported the change timely. (Continued)

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.74 (Continued)

Authority cited: Sections 10554, 11265.1, .2 and .3, 18901.3, 18904, and 18910, Welfare and Institutions Code.

Reference: Sections 10554, 11265.1, .2, and .3, 18901.3, 18904, and 18910, Welfare and Institutions Code; 7 CFR 271.2; 7 CFR 273.18, 7 CFR 273.18(a), (a)(1)(ii),

and (a)(2); 7 CFR 273.18(b)(3); 7 CFR 273.18(c)(1)(i), (c)(1)(ii), (ii)(b), and (c)(2)(ii) (Federal Register, Vol. 58, No. 209, pp. 58454 and 58455, dated November 1, 1993); 7 CFR 273.18(d)(4)(iii); 7 CFR 273.18(e)(1); 7 CFR 273.18(e)(3)(iv); 7 CFR 273.18(e)(3)(v); 7 CFR 273.18(e)(5)(v); 7 CFR 273.18(e)(6)(ii); 7 CFR 273.18(e)(7)(i); 7 CFR 273.18(f); 7 CFR 273.18(g)(4)(ii); 7 CFR 273.18(g)(6); 7 CFR 273.18(g)(8); 7 CFR 273.18(g)(9); 7 CFR 273.18(h)(4); 7 CFR 273.18(i); 7 CFR 273.18(k)(5); 7 CFR 273.18(n)(1)(i); 7 U.S.C. 2022(a)(1); U.S.D.A., Food and Nutrition Service letter WFS-100:FS-10-6-CA, dated October 7, 1991; Food and Nutrition Service Quarterly Reporting/Prospective Budgeting waiver approval dated April 1, 2003; P.L. 104-193, Sections 809 and 844 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996) and Lomeli v. Saenz, Sacramento Superior Court, Case #98CS01747.